



Sen. Ira I. Silverstein

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1 AMENDMENT TO SENATE BILL 2513

2 AMENDMENT NO. _____. Amend Senate Bill 2513 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-805 as follows:

6 (705 ILCS 405/5-805)

7 Sec. 5-805. Transfer of jurisdiction.

8 (1) Mandatory transfers.

9 (a) If a petition alleges commission by a minor 15
10 years of age or older of an act that constitutes a forcible
11 felony under the laws of this State, and if a motion by the
12 State's Attorney to prosecute the minor under the criminal
13 laws of Illinois for the alleged forcible felony alleges
14 that (i) the minor has previously been adjudicated
15 delinquent or found guilty for commission of an act that
16 constitutes a felony under the laws of this State or any

1 other state and (ii) the act that constitutes the offense
2 was committed in furtherance of criminal activity by an
3 organized gang, the Juvenile Judge assigned to hear and
4 determine those motions shall, upon determining that there
5 is probable cause that both allegations are true, enter an
6 order permitting prosecution under the criminal laws of
7 Illinois.

8 (b) If a petition alleges commission by a minor 15
9 years of age or older of an act that constitutes a felony
10 under the laws of this State, and if a motion by a State's
11 Attorney to prosecute the minor under the criminal laws of
12 Illinois for the alleged felony alleges that (i) the minor
13 has previously been adjudicated delinquent or found guilty
14 for commission of an act that constitutes a forcible felony
15 under the laws of this State or any other state and (ii)
16 the act that constitutes the offense was committed in
17 furtherance of criminal activities by an organized gang,
18 the Juvenile Judge assigned to hear and determine those
19 motions shall, upon determining that there is probable
20 cause that both allegations are true, enter an order
21 permitting prosecution under the criminal laws of
22 Illinois.

23 (c) If a petition alleges commission by a minor 15
24 years of age or older of: (i) an act that constitutes an
25 offense enumerated in the presumptive transfer provisions
26 of subsection (2); and (ii) the minor has previously been

1 adjudicated delinquent or found guilty of a forcible
2 felony, the Juvenile Judge designated to hear and determine
3 those motions shall, upon determining that there is
4 probable cause that both allegations are true, enter an
5 order permitting prosecution under the criminal laws of
6 Illinois.

7 (d) If a petition alleges commission by a minor 15
8 years of age or older of an act that constitutes the
9 offense of aggravated discharge of a firearm committed in a
10 school, on the real property comprising a school, within
11 1,000 feet of the real property comprising a school, at a
12 school related activity, or on, boarding, or departing from
13 any conveyance owned, leased, or contracted by a school or
14 school district to transport students to or from school or
15 a school related activity, regardless of the time of day or
16 the time of year, the juvenile judge designated to hear and
17 determine those motions shall, upon determining that there
18 is probable cause that the allegations are true, enter an
19 order permitting prosecution under the criminal laws of
20 Illinois.

21 For purposes of this paragraph (d) of subsection (1):

22 "School" means a public or private elementary or
23 secondary school, community college, college, or
24 university.

25 "School related activity" means any sporting, social,
26 academic, or other activity for which students' attendance

1 or participation is sponsored, organized, or funded in
2 whole or in part by a school or school district.

3 (2) Presumptive transfer.

4 (a) If the State's Attorney files a petition, at any
5 time prior to commencement of the minor's trial, to permit
6 prosecution under the criminal laws and the petition
7 alleges the commission by a minor 15 years of age or older
8 of: (i) a Class X felony other than armed violence; (ii)
9 aggravated discharge of a firearm; (iii) armed violence
10 with a firearm when the predicate offense is a Class 1 or
11 Class 2 felony and the State's Attorney's motion to
12 transfer the case alleges that the offense committed is in
13 furtherance of the criminal activities of an organized
14 gang; (iv) armed violence with a firearm when the predicate
15 offense is a violation of the Illinois Controlled
16 Substances Act, a violation of the Cannabis Control Act, or
17 a violation of the Methamphetamine Control and Community
18 Protection Act; (v) armed violence when the weapon involved
19 was a machine gun or other weapon described in subsection
20 (a)(7) of Section 24-1 of the Criminal Code of 1961; (vi)
21 an act in violation of Section 401 of the Illinois
22 Controlled Substances Act which is a Class X felony, while
23 in a school, regardless of the time of day or the time of
24 year, or on any conveyance owned, leased, or contracted by
25 a school to transport students to or from school or a
26 school related activity, or on residential property owned,

1 operated, or managed by a public housing agency or leased
2 by a public housing agency as part of a scattered site or
3 mixed-income development; or (vii) an act in violation of
4 Section 401 of the Illinois Controlled Substances Act and
5 the offense is alleged to have occurred while in a school
6 or on a public way within 1,000 feet of the real property
7 comprising any school, regardless of the time of day or the
8 time of year when the delivery or intended delivery of any
9 amount of the controlled substance is to a person under 17
10 years of age, (to qualify for a presumptive transfer under
11 paragraph (vi) or (vii) of this clause (2)(a), the
12 violation cannot be based upon subsection (b) of Section
13 407 of the Illinois Controlled Substances Act) and, if the
14 juvenile judge assigned to hear and determine motions to
15 transfer a case for prosecution in the criminal court
16 determines that there is probable cause to believe that the
17 allegations in the petition and motion are true, there is a
18 rebuttable presumption that the minor is not a fit and
19 proper subject to be dealt with under the Juvenile Justice
20 Reform Provisions of 1998 (Public Act 90-590), and that,
21 except as provided in paragraph (b), the case should be
22 transferred to the criminal court.

23 (b) The judge shall enter an order permitting
24 prosecution under the criminal laws of Illinois unless the
25 judge makes a finding based on clear and convincing
26 evidence that the minor would be amenable to the care,

1 treatment, and training programs available through the
2 facilities of the juvenile court based on an evaluation of
3 the following:

4 (i) the age of the minor;

5 (ii) the history of the minor, including:

6 (A) any previous delinquent or criminal
7 history of the minor,

8 (B) any previous abuse or neglect history of
9 the minor, and

10 (C) any mental health, physical or educational
11 history of the minor or combination of these
12 factors;

13 (iii) the circumstances of the offense, including:

14 (A) the seriousness of the offense,

15 (B) whether the minor is charged through
16 accountability,

17 (C) whether there is evidence the offense was
18 committed in an aggressive and premeditated
19 manner,

20 (D) whether there is evidence the offense
21 caused serious bodily harm,

22 (E) whether there is evidence the minor
23 possessed a deadly weapon;

24 (iv) the advantages of treatment within the
25 juvenile justice system including whether there are
26 facilities or programs, or both, particularly

1 available in the juvenile system;

2 (v) whether the security of the public requires
3 sentencing under Chapter V of the Unified Code of
4 Corrections:

5 (A) the minor's history of services, including
6 the minor's willingness to participate
7 meaningfully in available services;

8 (B) whether there is a reasonable likelihood
9 that the minor can be rehabilitated before the
10 expiration of the juvenile court's jurisdiction;

11 (C) the adequacy of the punishment or
12 services.

13 In considering these factors, the court shall give
14 greater weight to the seriousness of the alleged offense
15 and the minor's prior record of delinquency than to the
16 other factors listed in this subsection.

17 For purposes of clauses (2) (a) (vi) and (vii):

18 "School" means a public or private elementary or secondary
19 school, community college, college, or university.

20 "School related activity" means any sporting, social,
21 academic, or other activity for which students' attendance or
22 participation is sponsored, organized, or funded in whole or in
23 part by a school or school district.

24 (3) Discretionary transfer.

25 (a) If a petition alleges commission by a minor 13
26 years of age or over of an act that constitutes a crime

1 under the laws of this State and, on motion of the State's
2 Attorney to permit prosecution of the minor under the
3 criminal laws, a Juvenile Judge assigned by the Chief Judge
4 of the Circuit to hear and determine those motions, after
5 hearing but before commencement of the trial, finds that
6 there is probable cause to believe that the allegations in
7 the motion are true and that it is not in the best
8 interests of the public to proceed under this Act, the
9 court may enter an order permitting prosecution under the
10 criminal laws.

11 (b) In making its determination on the motion to permit
12 prosecution under the criminal laws, the court shall
13 consider among other matters:

14 (i) the age of the minor;

15 (ii) the history of the minor, including:

16 (A) any previous delinquent or criminal
17 history of the minor,

18 (B) any previous abuse or neglect history of
19 the minor, and

20 (C) any mental health, physical, or
21 educational history of the minor or combination of
22 these factors;

23 (iii) the circumstances of the offense, including:

24 (A) the seriousness of the offense,

25 (B) whether the minor is charged through
26 accountability,

1 (C) whether there is evidence the offense was
2 committed in an aggressive and premeditated
3 manner,

4 (D) whether there is evidence the offense
5 caused serious bodily harm,

6 (E) whether there is evidence the minor
7 possessed a deadly weapon;

8 (iv) the advantages of treatment within the
9 juvenile justice system including whether there are
10 facilities or programs, or both, particularly
11 available in the juvenile system;

12 (v) whether the security of the public requires
13 sentencing under Chapter V of the Unified Code of
14 Corrections:

15 (A) the minor's history of services, including
16 the minor's willingness to participate
17 meaningfully in available services;

18 (B) whether there is a reasonable likelihood
19 that the minor can be rehabilitated before the
20 expiration of the juvenile court's jurisdiction;

21 (C) the adequacy of the punishment or
22 services.

23 In considering these factors, the court shall give
24 greater weight to the seriousness of the alleged offense
25 and the minor's prior record of delinquency than to the
26 other factors listed in this subsection.

1 (4) The rules of evidence for this hearing shall be the
2 same as under Section 5-705 of this Act. A minor must be
3 represented in court by counsel before the hearing may be
4 commenced.

5 (5) If criminal proceedings are instituted, the petition
6 for adjudication of wardship shall be dismissed insofar as the
7 act or acts involved in the criminal proceedings. Taking of
8 evidence in a trial on petition for adjudication of wardship is
9 a bar to criminal proceedings based upon the conduct alleged in
10 the petition.

11 (6) The jurisdiction of the Juvenile Court for the
12 prosecution of an alleged violation of Section 11-20.4 of the
13 Criminal Code of 1961 shall be determined as provided in that
14 Section.

15 (Source: P.A. 94-556, eff. 9-11-05; 94-574, eff. 8-12-05;
16 95-331, eff. 8-21-07.)

17 Section 10. The Criminal Code of 1961 is amended by adding
18 Section 11-20.4 as follows:

19 (720 ILCS 5/11-20.4 new)

20 Sec. 11-20.4. Minor electronically disseminating indecent
21 visual depiction of himself or herself to another person.

22 (a) For the purposes of this Section:

23 "Computer" has the meaning ascribed to it in Section
24 16D-2 of this Code.

1 "Electronic communication device" means an electronic
2 device, including but not limited to a wireless telephone,
3 personal digital assistant, or a portable or mobile
4 computer, that is capable of transmitting images or
5 pictures.

6 "Indecent visual depiction" means the depiction of a
7 lewd exhibition of the unclothed or transparently clothed
8 genitals, pubic area, buttocks, or, if the person is
9 female, a fully or partially developed breast of the
10 person.

11 "Minor" means a person under 18 years of age.

12 (b) A minor shall not knowingly and voluntarily and without
13 threat or coercion use a computer or electronic communication
14 device to transmit an indecent visual depiction of himself or
15 herself to another person.

16 (c) A person shall not possess a visual depiction
17 transmitted to the person in violation of subsection (b) of
18 this Section. It is not a violation of this subsection (c) if
19 the person took reasonable steps, whether successful or not, to
20 destroy or eliminate the visual depiction within a reasonable
21 time after discovering the depiction.

22 (d) Sentence.

23 (1) A person 18 years of age or older who violates
24 subsection (c) of this Section is guilty of a Class B
25 misdemeanor.

26 (2) Except as provided in paragraph (3) of this

1 subsection (d), a minor who violates subsection (b) or (c)
2 of this Section shall be adjudicated a delinquent minor
3 under the Juvenile Court Act of 1987.

4 (3) A minor who violates subsection (b) or (c) of this
5 Section who has previously been adjudicated in violation of
6 either of those subsections may be either adjudicated a
7 delinquent minor under the Juvenile Court Act of 1987 or
8 subject to discretionary transfer for prosecution under
9 the criminal laws of this State in accordance with
10 subsection (3) of Section 5-805 of that Act. A minor
11 subject to discretionary transfer for a violation is guilty
12 of a Class B misdemeanor.

13 (e) This Section shall not be construed to prohibit a
14 prosecution for disorderly conduct, public indecency, child
15 pornography, a violation of the Harassing and Obscene
16 Communications Act, or any other applicable provision of law."